



OFFICE OF THE POLICE COMMISSIONER
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January 11, 2019

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Arthur Green**
Tax Registry No. 941847
Police Service Area 9
Disciplinary Case Nos. 2017-16887 & 2017-17056

The above named member of the service appeared before Assistant Deputy Commissioner Nancy R. Ryan on October 23, 2018, and was charged with the following:

DISCIPLINARY CASE NO. 2017-16887

1. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green wrongfully operated a motor vehicle while under the influence of an intoxicant.

P.G. 203-10, Page 1, Paragraph 5

NYS VTL SECTION 1192(3)

**PUBLIC CONTACT –
PROHIBITED CONDUCT
OPERATING A MOTOR
VEHICLE WHILE UNDER THE
INFLUENCE OF ALCOHOL OR
DRUGS**

2. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green wrongfully operated a motor vehicle while his ability was impaired by consumption of alcohol.

P.G. 203-10, Page 1, Paragraph 5

NYS VTL SECTION 1192(1)

**PUBLIC CONTACT –
PROHIBITED CONDUCT
OPERATING A MOTOR
VEHICLE WHILE UNDER THE
INFLUENCE OF ALCOHOL**

3. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], said Police Officer Green was unfit for duty due to the overindulgence of an intoxicant.

P.G. 203-04, Page 1, Paragraph 2

FITNESS FOR DUTY

4. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Green wrongfully refused to submit to a Breathalyzer test.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

5. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Green engaged in a physical altercation with a member of the Westchester County Police Department.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

6. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green resisted arrest and failed to comply with the directives of the Westchester County Police Department.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

DISCIPLINARY CASE NO. 2017-17056

1. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer failed to safeguard his Department issued shield and Department issued cellular phone, resulting in its loss.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

2. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer failed to immediately notify the Department of the loss of his Department issued shield and Department issued cellular phone.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

3. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer performed enforcement duties in uniform without his Department issued shield, as required.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

4. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about and between July 7, 2016 and July 10, 2016, did fail and neglect to maintain his Activity Log (PD 112-145), as required.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS

5. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 11, 2016, did wrongfully without just cause, prevent or interfere with an official Department investigation, to wit: said Police Officer made misleading statements to Members of the Department during an official Department Interview.

P.G. 203-10, Page 1, Paragraph 2(d)

**PUBLIC CONTACT -
PROHIBITED CONDUCT**

6. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 11, 2016, during an official investigation conducted by the New York City Police Department, pursuant to the provisions of Patrol Guide 206-13, did wrongfully make false and misleading statements.

P.G. 203-08, Page 1, Paragraph 1

MAKING FALSE STATEMENTS

7. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about and between March 27, 2016 and July 9, 2016, having changed said officer social condition, did fail and neglect to notify his Commanding Officer by submitting form Change of Name, Residence or Social Condition (PD 451-021), as required.

P.G. 203-18, Page 1, Paragraph 2

RESIDENCY REQUIREMENTS

In a Memorandum dated November 20, 2018, Assistant Deputy Commissioner Nancy R. Ryan found Police Officer Green Guilty of all Specifications in both Disciplinary Case Nos. 2017-16887 and 2017-17056 after Police Officer Green pled Guilty to all Specifications in both cases. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Green has been found Guilty and deem that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Police Officer Green at this time.

It is therefore directed that an *immediate* post-trial negotiated agreement be implemented with Police Officer Green in which he shall forfeit thirty-one (31) suspension days previously served, forfeit thirty (30) suspension days to be served, be placed on one (1) year dismissal probation, cooperate with counseling and ordered breath testing, forfeit of all time and leave balances and immediately file for Vested-Interest Retirement.

Such post-trial negotiated agreement shall also include Police Officer Green's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Green does not agree to the terms of this post-trial negotiated agreement as noted, this Office is to be notified without delay. This agreement is to be implemented *IMMEDIATELY*.


James P. O'Neill
Police Commissioner



POLICE DEPARTMENT

November 20, 2018

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2017-16887 & 2017-17056
Police Officer Arthur Green	:	
Tax Registry No. 941847	:	
Police Service Area 9	:	

-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Beth Douglas, Esq.
Department Advocate's Office
One Police Plaza, 4th Floor
New York, NY 10038

For the Respondent: Angelo MacDonald, Esq.
Pappalardo & Pappalardo, LLP
700 White Plains Road, Suite 355
Scarsdale, NY 10583

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2017-16887

1. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green wrongfully operated a motor vehicle while under the influence of an intoxicant.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONDUCT - PROHIBITED CONDUCT
NYS VTL SECTION 1192(3) OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
2. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green wrongfully operated a motor vehicle while his ability was impaired by consumption of alcohol.
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NYS VTL SECTION 1192(1) OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL
3. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], said Police Officer Green was unfit for duty due to the over indulgence of an intoxicant.
P.G. 203-04, Page 1, Paragraph 2 FITNESS FOR DUTY
4. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Green wrongfully refused to submit to a breathalyzer test.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONDUCT - PROHIBITED CONDUCT
5. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green engaged in a physical altercation with a member of the Westchester County Police Department.
P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONDUCT - PROHIBITED CONDUCT
6. Said Police Officer Arthur Green, on or about January 13, 2017, while off-duty and in the county of [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Green resisted arrest and failed to comply with the directives of the Westchester County Police Department.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONDUCT - PROHIBITED
CONDUCT

Disciplinary Case No. 17056/17

1. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer failed to safeguard his Department issued shield and Department issued cellular phone, resulting in its loss.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT

2. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer failed to immediately notify the Department of the loss of his Department issued shield and Department issued cellular phone.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT

3. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said officer performed enforcement duties in uniform without his Department issued shield, as required.

P.G. 203-10 Page 1, Paragraph 5 PUBLIC CONTACT - PROHIBITED
CONDUCT

4. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about and between July 7, 2016 and July 10, 2016, did fail and neglect to maintain his Activity Log (PD 112-145), as required.

P.G. 212-08 Page 1, Paragraph 1 ACTIVITY LOGS

5. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 11, 2016, did wrongfully without just cause, prevent or interfere with an official Department investigation, to wit: said Police Officer made misleading statements to Members of the Department during an official Department Interview.

P.G. 203-10 Page 1, Paragraph 2(d) PUBLIC CONTACT - PROHIBITED
CONDUCT

6. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about July 11, 2016, during an official investigation conducted by the New York City Police Department, pursuant to the provisions of Patrol Guide 206-13, did wrongfully make false and misleading statements.

P.G. 203-08 Page 1, Paragraph 1 MAKING FALSE STATEMENTS

7. Said Police Officer Arthur Green, while assigned to the 77th Precinct, on or about and between March 27, 2016 and July 9, 2016, having changed said officer social condition, did fail and neglect to notify his Commanding Officer by submitting form Change of Name, Residence or Social Condition (PD 451-021), as required.

P.G. 203-18 Page 1, Paragraph 2 RESIDENCY REQUIREMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before the Court on October 23, 2018. Respondent, through his counsel, entered a plea of Guilty to the Charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. As Respondent has pled Guilty to all the specifications in both cases, I find him Guilty and recommend a penalty that Respondent be DISMISSED from the New York City Police Department but that his dismissal be held in abeyance for a period of one year pursuant to Section 14-115(d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. In addition, I recommend that Respondent forfeit the thirty-one (31) days already served on pretrial suspension and that he be suspended for an additional thirty (30) days without pay and that Respondent forfeit forty-five (45) vacation days.

ANALYSIS

The Department in this case requested a penalty of termination and Respondent testified in an attempt to mitigate the penalty. He recounted that prior to joining the NYPD 12 ½ years ago at approximately age 35, he had received basketball scholarships to a prep school and to St. John's university. He graduated from St. Johns and played semi-pro basketball for several years. (Tr. 13-15, 22) After that he worked for the Department of Juvenile Justice at their Spofford facility for six years where he worked with juvenile delinquents and mentored them. (Tr. 21-22)

During his time with NYPD, Respondent worked in anti-crime in the 77 precinct. (Tr. 18) He has made approximately 300 arrests. He testified he was given an opportunity to go into counter-terrorism and received training for that. (Tr. 18-19)

With regard to Case No. 2017-16887, Respondent testified that at the time of the incident he was alone in his car and that there had not been any accident. He had nodded off in the car. (Tr. 28, 43) He had been drinking alcohol that evening after [REDACTED] and went to a hotel to "clear his head." (Tr. 43, 52) Respondent admitted that he refused a breathalyzer and that there was one empty and one open container of alcohol in his car at the time of his arrest. (Tr. 56-58) Respondent reluctantly testified that he had an "altercation" with a lieutenant at the time of his arrest. He did admit that he initially refused to be fingerprinted and demanded that he be transported in a van rather than a police car. (Tr. 33-34, 59-62) Respondent pled guilty to a disorderly conduct which was reduced from the charge of assault on a police office and also pled guilty to DWI. He was sentenced to fines and required classes. Respondent testified he started the classes right away to "try to make amends" for his mistakes. (Tr. 28, 62) After the incident, rather than get a locking device on his car, he chose to park it and has not used it to this day. (Tr. 29)

With regard to Case No. 17056/17, Respondent testified that after he realized he couldn't find his shield and Department cell phone, he did not want to report it immediately because he had just lost a shield about four months prior to this incident. He went out on duty for one tour without his shield and then took lost time to look for it. When he realized he couldn't find it he told his Captain the shield was lost. (Tr. 36-37) When he went for his official Department interview about the incident he didn't want his superiors to know that he [REDACTED] [REDACTED] had been going to different places to live so he falsely told the investigators that he had the shield at a gym where he had been referred by another officer and had been given a courtesy membership as a police officer. (Tr. 44, 67) When he was called for a second Department interview about four months later, Respondent admitted he lied about the gym, the referral and the courtesy membership during his first official interview. Respondent also

attributed his failure to properly change his address with the Department, as charged in the specifications, to [REDACTED] (Tr. 44) After he lied on his Department interview, but prior to his arrest for the DWI, Respondent was placed on modified duty. (Tr. 69)

During the course of his testimony, Respondent also choose to describe the circumstances surrounding his prior incident of misconduct where he was involved in a physical altercation with an on duty Member of the Service in 2011. He stated that the officer was disrespectful to him on the day that Respondent was on his way to [REDACTED] (Tr. 41-42)

Respondent testified that the does not have any alcohol problem and that he is now [REDACTED] has his own apartment and feels he is back on solid ground. (Tr. 47-49) Respondent in the course of his testimony apologized to the Department for his mistake and admitted he regretted the actions he took with regard to all the specifications. (Tr. 51)

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 10, 2006. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

In addressing the specifications revolving around the DWI incident, it is important to note that there was no death or serious physical injury to another person, the conduct occurred off-duty in Respondent's personal car, there were no serious traffic violations, Respondent did not leave the scene. Respondent had no prior DWI, there were no passengers in the vehicle with Respondent and Respondent was not on Dismissal Probation at the time. There was no indication that Respondent had a weapon at the time. There were aggravating factors in the

incident in that Respondent refused to submit to a breathalyzer and he did have an open container of alcohol in the vehicle. The court finds that a consideration of all the above factors would call for an increase in the amount of vacation days lost as a penalty rather than the termination of Respondent's employment based on the DWI related specifications. Notably the Department Advocate, despite requesting that Respondent be terminated from the Department, cited Disciplinary Case No. [REDACTED] signed November 9, 2017 in which a twelve-year detective, with no prior formal disciplinary history, negotiated a penalty of thirty (30) pretrial suspension days without pay; fifteen (15) suspension days to be served without pay; fifteen (15) vacation days; one-year dismissal probation and compliance with breath testing and counseling for (i) operating a motor vehicle while under the influence of intoxicating liquor; (ii) consuming an intoxicant to the extent he was unfit for duty; (iii) refusing to submit to breath testing to determine blood alcohol content; and (iv) failing to notify the Operations Unit that he had been arrested upon his release from custody. In that case, with facts somewhat similar to the facts in the DWI portion of this case, a member of the [REDACTED] Police Dep't responded to a report of a vehicle parked on the lawn of a residence with an unresponsive driver. Upon arrival, Respondent was observed sleeping in the driver's seat of his personal vehicle with the keys in the ignition. Officers attempted to interact with Respondent, but he refused to answer their questions and refused a field sobriety test. Respondent smelled of alcohol and slurred his speech. He refused a Breathalyzer test. Upon his release later that day, Respondent was issued three summonses and released. Respondent failed to notify the Operations Unit of his arrest.

As the Department correctly argues however, the Respondent here has pled Guilty to other charges in addition to the DWI related charges. Respondent did lie at an official Department interview about where he might have lost his shield, thus potentially impeding the recovery of a shield and sending investigators on unnecessary assignments following the false

information. With regard to the charges pertaining to lying during an official Department interview the Department Advocate cited to Disciplinary Case No. 2016-15648, signed October 4, 2017, in which a ten-year police officer with no prior formal disciplinary history negotiated a penalty of 20 vacation days for twice (as opposed to the one time in the current case), impeding an official Department investigation by making misleading or otherwise inaccurate statements during an official Department interview with IAB. Respondent repeatedly made misleading statements in Department interviews regarding his being directed by a supervisor to change the allegations contained in a Complaint Report.

It must also be noted that Respondent, as part of the DWI incident, pled Guilty to a Disorderly Conduct charge based on his contact with the Lieutenant involved in the DWI arrest.

Respondent testified in a sincere and remorseful manner. He acknowledged his misconduct and chose simply to request to mitigate a penalty. I therefore credit Respondent's testimony that he is sorry for all of his mistakes and his testimony that he feels that the problems mainly stemmed from a situation [REDACTED] which he believes has now been remedied.

However, the totality of the misconduct in this case calls for a very severe penalty. I therefore recommend that Respondent be DISMISSED from the New York City Police Department but that his dismissal be held in abeyance for a period of one year pursuant to Section 14-115(d) of the Administrative Code, during which time he remains on the force at the Police

Commissioner's discretion and may be terminated at any time without further proceedings. In addition, I recommend that Respondent forfeit the thirty-one (31) days already served on pretrial suspension and that he be suspended for an additional thirty (30) days without pay and that Respondent forfeit forty-five (45) vacation days. While it is beyond the authority of this Court to direct mandatory breath testing; or mandatory cooperation with alcohol abuse counseling staff, it

is strongly recommended that such additional measures be considered by responsible authorities.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Nancy Ryan", with the initials "JSA" written below it.

Nancy R. Ryan
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ARTHUR GREEN
TAX REGISTRY NO. 941847
DISCIPLINARY CASE NOS. 2017-16887 & 2017-17056

Respondent was appointed to the Department on July 10, 2006.

On his last three annual performance evaluations, Respondent received overall ratings of 4.5 "Extremely Competent/Highly Competent" in 2015, 4.0 "Highly Competent" in 2014, and 3.0 "Competent" in 2013. Respondent has been awarded two Department medals for Excellent Police Duty and one for Meritorious Police Duty.

On July 28, 2016, Respondent was placed on Level 1 Disciplinary Monitoring after being placed on modified assignment; that monitoring ended on January 26, 2017.

On January 26, 2017, Respondent was placed on Level 2 Disciplinary Monitoring for being the subject for formal disciplinary charges and specifications; that monitoring remains ongoing.

In 2012, Respondent negotiated a penalty of 32 pre-trial suspension days without pay for engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department in that he was involved in a physical altercation with an on-duty New York City Police Officer.

For your consideration.

Nancy R. Ryan
Assistant Deputy Commissioner Trials